



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 8021856

Date: APR. 23, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a copywriter, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner has a qualifying one-time achievement, or, in the alternative, that he meets at least three of the ten initial evidentiary criteria for this classification.

On appeal, the Petitioner asserts that the Director erred in his assessment of the evidence and maintains that he is eligible to be classified as an individual of extraordinary ability.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010).

II. ANALYSIS

The Petitioner was employed as a “Senior Copywriter/Creative” with [REDACTED] in the United States at the time of filing in September 2018. The record reflects that he previously worked as a copywriter for [REDACTED] Brazil.

The Director determined that the Petitioner claimed, but did not establish, that he has a qualifying one-time achievement and therefore he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director found that the Petitioner satisfied only two of those criteria. On appeal, the Petitioner maintains that he presented evidence that he received a major, internationally recognized award, and, in the alternative, that he meets four of the ten alternate criteria, discussed below.

A. One-time Achievement

The regulation at 8 C.F.R. § 204.5(h)(3) states that a petitioner may submit evidence of a one-time achievement that is a major, internationally recognized award. The Petitioner claims that he has received qualifying awards in the field of advertising from the [REDACTED] [REDACTED] and the [REDACTED] Awards. We agree with the Director that the evidence does not establish the Petitioner’s receipt of a major, internationally recognized award.

Given Congress’ intent to restrict this category to “that small percentage of individuals who have risen to the very top of their field of endeavor,” the regulation permitting eligibility based on a one-time achievement must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. *See* H.R. Rep. 101-723, 59 (Sept. 19, 1990), reprinted in 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at *6739. The House Report specifically cited to the Nobel Prize as an example of a one-time achievement; other examples which enjoy major, international recognition may include the Pulitzer Prize, the Academy Award, and an Olympic Medal. The regulation is consistent with this legislative history, stating that a one-time achievement must be a major, internationally recognized award. 8 C.F.R. § 204.5(h)(3). The selection of Nobel Laureates, the example provided by Congress, is reported in the top media internationally regardless of the nationality of the awardees, reflects a familiar name to the public at large, and includes a large cash prize. While an internationally recognized award could conceivably constitute a one-time achievement without

meeting all of those elements, it is clear from the example provided by Congress that the award must be global in scope and internationally recognized in the field as one of the top awards.

With respect to the [] festival, the Petitioner submitted eight certificates that name him as a member of [] Brazil teams that received “Finalist” recognition in various categories at the 2011, 2012, and 2013 awards. However, the Petitioner did not submit evidence indicating that he received an award at any of the [] festivals. The record reflects that the top prize bestowed at the [] is the Grand Prix, while the festival also awards Gold [], Silver [] and Bronze []. In addition, the record indicates that there is a “Shortlist” in each category that is below the Bronze award. The record does not contain evidence explaining the significance of the “Finalist” recognition, but it appears to be reserved for entries that did not meet the “Shortlist” threshold. Therefore, based on the documentation provided, the Petitioner did not establish that his “Finalist” certificates from [] are “awards,” and therefore has not established that they are major, internationally recognized awards.

With respect to the [] Awards, the Petitioner provided a letter from [] Associate Director of Judging, who confirms that the Petitioner “has been recognized at our shows.” The letter states that the Petitioner received a Bronze [] Award in the “Design – Direct Marketing” category in 2013, as well as Shortlist mentions in 2012 and 2014. [] describes the [] Awards as “the world’s most recognized international awards competition for advertising, design, digital and communications” across all medium types, and notes that award-winning entries “must be considered one of the best from more than 10,000 entries.” The Petitioner also submitted information from the [] Awards website (www.[]com), which describes it as “the esteemed international awards competition,” and mentions the “Grand [],” which is awarded in each category, as “the highest honor” bestowed. According to a submitted printout from the [] Awards website, fewer than 20% of submissions within each media type survive the first two rounds of judging to be considered for a gold, silver, or bronze statue or a shortlist mention.

While the Petitioner’s Bronze [] award is a notable professional achievement, the regulation at 8 C.F.R. § 204.5(h)(3) requires the one-time achievement to be “a major, international[ly] recognized award.” The Petitioner did not present evidence, for example, establishing that the competition is widely reported by international media, is recognized by the general public, or garners attention comparable to other major, globally recognized awards such as Academy Award winners. Nor is there supporting evidence showing that the recipients of Bronze [] awards were announced in major media or in some other manner consistent with a major, internationally recognized award. Accordingly, the Petitioner has not demonstrated that his receipt of a 2013 Bronze [] Award meets the requirements of a one-time achievement.

B. Evidentiary Criteria

Because the Petitioner has not established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director found that the Petitioner fulfilled two of the initial evidentiary criteria: lesser nationally or internationally recognized awards under 8 C.F.R. § 204.5(h)(3)(i), and participation as a judge of the work of others at 8 C.F.R. § 204.5(h)(3)(iii).

On appeal, the Petitioner asserts that he also meets the evidentiary criteria relating to leading or critical roles for organizations that have a distinguished reputation, and high salary. After reviewing all of the evidence in the record, we find that the Petitioner has not established that he satisfies at least three of the ten initial evidentiary criteria.¹

Documentation of the individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i)

The Director found that the Petitioner satisfied this criterion without identifying the qualifying prizes or awards and explaining his determination. In order to fulfill this criterion, the Petitioner must demonstrate that his prizes or awards are nationally or internationally recognized for excellence in the field of endeavor.² Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.³ For the reasons discussed below, we will withdraw the Director's determination that this criterion was met.

In addition to the above-referenced recognitions from the [redacted] festival and [redacted] Awards, the Petitioner submitted evidence of his receipt of the following:

- [redacted] Awards: Silver [redacted] Award
- [redacted] Festivals International Advertising Awards: one "Silver World Medal" and one "Finalist" recognition
- [redacted] awards: "Award of Excellence" (two)
- [redacted] Awards: one Merit Award
- [redacted] Festival: one Gold award, one Silver award, three Bronze awards
- [redacted]: one Silver award, two Bronze awards
- [redacted] Awards: two "Silver" awards and four "Anuário" awards
- [redacted]: one Bronze Award
- [redacted] Competition: selected as a member of Brazil's team at 2012 [redacted] Festival
- [redacted] Worldwide: [redacted] Award

The Petitioner has maintained that his most significant awards are from the [redacted] festival and the [redacted] Awards. However, as discussed above, while the [redacted] festival included participants from multiple nations, the record does not contain sufficient evidence to demonstrate that the Petitioner's standing as a "finalist" demonstrates his receipt of a nationally or internationally recognized *prize* or *award* for excellence in his field. The record reflects that the awards given by

¹ The Petitioner does not claim to meet any of the regulatory criteria not discussed in this decision.

² See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 6* (Dec. 22, 2010), <http://www.uscis.gov/legal-resources/policy-memoranda>.

³ *Id.*

[redacted] include Grand Prix, Gold, Silver, and Bronze [redacted]. The Petitioner did not demonstrate that he received any of these awards, nor did he demonstrate the significance of being recognized as a “finalist.”

While the record includes information about the [redacted] Awards from its website and online industry publications identifying “Grand [redacted]” winners as those receiving “the biggest prize,” the Petitioner has not demonstrated that his receipt of the aforementioned [redacted] Bronze award is a nationally or internationally recognized prize or award for excellence in the field. There are multiple gold, silver, and bronze winners in each [redacted] category and hundreds of award winners overall.⁴ It has not been established, for example, that [redacted] Bronze awards are acknowledged anywhere but on the [redacted] Awards website. The issue here is not the national or international scope of the competition, but rather whether the Petitioner’s specific awards are nationally or internationally recognized prizes or awards for excellence in the field. Here, the Petitioner did not show that an award several levels below the top category is indicative of a nationally or internationally recognized award “for excellence” in the field of endeavor. As noted, the number of awardees or prize recipients is a relevant consideration when evaluating whether a given award meets this criterion.⁵

As it relates to the [redacted] Awards, the Petitioner provided a press release from the awards website announcing the winners of the 2017 awards. According to this information, the [redacted] Award is the only award that recognizes “excellence in financial advertising and marketing on a global scale.” The submitted press release, however, only mentions the winner of the “Grand [redacted]” award and the many winners of “[redacted] Gold Ingots.” The Petitioner did not establish that the same level of recognition is associated with the Silver [redacted] award that he received. Regarding the [redacted] Festivals Advertising Awards, the Petitioner provided a screenshot from the organization’s website announcing the winners of the 2018 Advertising Awards. According to the website, “[redacted] Festivals Advertising Awards are a simple way of telling clients and vendors that you are not interchangeable, that there is a standard of excellence.” However, the record does not contain any information regarding the award categories, an overview of the different levels of awards or prizes bestowed, or an explanation of the selection criteria. With respect to the [redacted] awards, the Petitioner submitted copies of his “Award of Excellence” certificates and a screenshot from the awarding entity’s website which describes the juried competition as “the most influential” in visual communications, noting that the awards are “a valuable resource for potential clients and colleagues.”

While the information submitted suggests that these three competitions draw international competitors in the Petitioner’s field, he did not provide independent evidence from a source other than the organizations themselves regarding the national or international recognition accorded to the awards they issue. Further, the limited information provided does not address the significance of the specific awards that the Petitioner received from these awarding entities, particularly his “Silver” award from the [redacted] Awards or “Silver Medal” from [redacted] Festivals. Overall, the record reflects that there are several international competitions in the advertising field that claim to be the most distinguished or recognizable, all with many levels of awards, many award categories, and many winning teams

⁴ According to the [redacted] Awards website, there were 542 teams recognized as winners of Grand [redacted] Gold [redacted] Silver [redacted] and Bronze [redacted] statues in 2013, which included 240 Bronze winners. In the Petitioner’s “Design-Direct Marketing” category, there were two Gold awards, three Silver awards and four Bronze awards given. See [https://\[redacted\].com/awards/winners?2013=year](https://[redacted].com/awards/winners?2013=year) (last visited on Apr. 21, 2020, copy included in record of proceeding).

⁵ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 6.

within each category. The evidence does not demonstrate that a silver or bronze award from these types of competitions meets all requirements of 8 C.F.R. § 204.5(h)(3)(i) based on the large number of winners and evidence indicating that the winners of the “grand” prizes in these competitions are those who receive independent recognition outside of the awarding organization.

A letter from [redacted] for Creativity describes its [redacted] awards competition, noting that “to be selected for a Pencil is a great honor.”⁶ The Petitioner provided similar testimonial evidence confirming his receipt of awards from [redacted] described as “the most recognized festival in Latin America,” and the [redacted] award, described as “the most important awards organization in Advertising dedicated to Spanish and Portuguese language countries.” The Petitioner did not submit independent evidence from a source other than the organizations themselves regarding the national or international recognition accorded to the awards they issue. While the record contains sufficient evidence to establish that the aforementioned competitions are national or international in scope, the issue here is not the scope of the competitions, but rather whether his specific awards are “nationally or internationally recognized prizes or awards for excellence in the field.”

With respect to the Petitioner’s awards from the [redacted] the letter from this organization’s event coordinator indicates that the [redacted] is a nonprofit organization established “to enhance and preserve the creativity of Brazilian advertising.” The letter states that the organization chooses the best advertising during the year from 2000 entries and edits the ads into a “Creative Yearbook.” While it appears that the organization considers entries from throughout Brazil and is therefore nation in scope, the letter does not address the significance of the Petitioner’s “Silver” and “*Anuario*” awards.

The Petitioner also submitted a screenshot from www.[redacted].org, regarding the [redacted] award which “recognizes the vanguard of creative professionals 30 years of age and under.” The Petitioner also submitted an overview of the [redacted] from [redacted] which describes it as a “portfolio-based competition” that is “one of the most coveted awards for young creatives around the globe.” Neither document provides further information regarding the national or international recognition afforded to the Bronze award the Petitioner received in the 2013 competition. The excerpt provided from the 2013 [redacted] winners and finalist list indicates that many bronze awards were given, including multiple awards within single categories. The Petitioner has not established the national or international significance of this age-restricted competition, which was not open to more seasoned or experienced professionals in his field.

As it relates to his [redacted] Award, the Petitioner provided a screenshot from the website of [redacted] Worldwide which indicates that this is a company-specific award for which only employees of the [redacted] Group are eligible. The Petitioner did not provide evidence that this was a nationally or internationally recognized award or that it is recognized outside the awarding company.

Finally, with respect to the 2012 [redacted] Competition, the Petitioner provided evidence that he was one of two young advertising professionals selected to represent Brazil at the competition. He did not provide evidence that the team representing Brazil received an award or prize

⁶ As noted, the record reflects that the Petitioner received “Merit Awards” from [redacted] rather than the “Pencil” award mentioned in the letter from the awarding entity. The letter did not address the significance of the “Merit Award.”

at the competition. While it appears that appointment to the team was a significant achievement due to a competitive selection process, such selection does not satisfy the plain language of the regulation, which requires the Petitioner to demonstrate his receipt of a prize or award.

For the reasons discussed above, we will withdraw the Director's determination that he meets this criterion.

Evidence of the individual's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv)

We agree with the Director's determination that the Petitioner met this criterion. The Petitioner provided evidence that he served as a judge for the "Cyber Category" of the [redacted] Brazil program in 2014. In addition, the record reflects that he served as a member of the jury for the 2016 [redacted] Creation Awards, and as a member of the jury for the 2010 [redacted] Festival [redacted] [redacted] sponsored by the Association of Advertising Professionals of [redacted] in Brazil.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii)

As it relates to a leading role, the evidence must establish that a petitioner is or was a leader. A title, with appropriate matching duties, can help to establish if a role is or was, in fact, leading.⁷ Regarding a critical role, the evidence must demonstrate that a petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. It is not the title of a petitioner's role, but rather the performance in the role that determines whether the role is or was critical.⁸

On appeal, the Petitioner asserts that he provided evidence of his leading or critical roles with [redacted] [redacted], as well as [redacted] Brazil and [redacted] With respect to [redacted] we note that the record reflects that the Petitioner commenced employment with this company subsequent to filing the petition. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). Therefore, we will focus on whether the evidence demonstrates that the Petitioner meets this criterion based on his employment in a leading or critical role with [redacted] or [redacted] Brazil. We note that the Petitioner provided evidence to establish that these agencies enjoy a distinguished reputation in the advertising industry.

The Petitioner provided letters from his colleagues at [redacted] in support of this criterion. The letters, however, do not establish that he held a leading position, nor do they contain specific information signifying the Petitioner's critical role to the company.⁹ For instance, [redacted] a senior vice president with [redacted] states that she invited the Petitioner to

⁷ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10.

⁸ *Id.*

⁹ *Id.* (stating that letters from individuals with personal knowledge of the significance of a petitioner's leading or critical role can be particularly helpful in making this determination as long as the letters contain detailed and probative information that specifically addresses how the role for the organization or establishment was leading or critical).

participate in “a very important pitch for the agency” and indicates that he “demonstrated to be an amazing creative and an authentic leader.” [redacted] who previously worked with the Petitioner during his time as a creative director with [redacted], states that he “had the opportunity to lead [the Petitioner] in several projects.” He identifies two of the Petitioner’s campaigns for high-profile clients, noting that each was “a huge success.” Further, [redacted] a creative director at [redacted], states that the Petitioner is “a professional that every manager wants to have on their team.” [redacted] explains that the Petitioner was “the main head of creative” on a fundamental pitch made to a company called [redacted] and that his pitch ultimately secured the campaign from the client, “which meant \$5 million more in revenue for the agency.” For this reason, [redacted] states that the Petitioner played “a critical role not only on projects he led but for the agency as a whole.”

The Petitioner also submitted two letters from his former colleagues at [redacted] Brazil. [redacted] states that the Petitioner, as a senior copywriter with [redacted] Brazil, “had a critical role with many clients, among them [redacted], [redacted], and others.” [redacted] explains that the Petitioner “was responsible for creating and developing campaigns and communication strategies for our clients” and notes “that is exactly what he did.” He highlights several high-profile client campaigns in which the Petitioner played an “essential role,” noting that they directly impacted the clients’ success, which indirectly impacted [redacted] Brazil’s reputation and its ability to win pitches. [redacted] who worked with the Petitioner at [redacted] Brazil, notes the Petitioner generated the “best ideas for our clients” and highlights his work on [redacted] and [redacted] projects. He states that both projects were very successful and would not have been possible without the Petitioner’s leadership.

Although the letters confirm the Petitioner’s employment and praise his talents and successful performance of his assigned responsibilities, they do not reflect detailed, probative information demonstrating the specific nature and outcomes of his roles with the respective businesses. While the letters indicate that the Petitioner carried out creative responsibilities that contributed to winning business and creating successful advertising campaigns, they do not explain how the Petitioner’s role as a copywriter was leading or critical to the overall outcome of his employers’ activities. On appeal, the Petitioner emphasizes the \$5 million campaign referenced in [redacted]’s letter, but the record does not contain evidence to place that figure in context, such that we can determine that this was considered a high-value campaign that significantly impacted [redacted]’s outcomes.

Accordingly, we agree with the Director’s determination that the Petitioner did not establish that he meets this criterion.

Evidence that the individual has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix)

In support of this criterion, the Petitioner provided: (1) a copy of his employment agreement with [redacted] [redacted] dated September 2017; (2) copies of three pay statements from June and July 2018; and (3) comparative wage data from various sources.

The Petitioner's employment agreement indicates that [redacted] agreed to pay him a base annual salary of \$200,000 for his services as a copywriter as of the date of the signed agreement.¹⁰ However, the Petitioner's pay statements reflect that his actual earnings with [redacted] were less than half of that amount. Specifically, they indicate that, in 2018, he was receiving gross wages of \$3802.09 on a semi-monthly basis and had year-to-date earnings of \$45,625.08 as of June 30, 2018.

On appeal, the Petitioner argues that the Director overlooked evidence from the Foreign Labor Certification (FLC) Online Wage Library indicating that the "Level 4" wage for art directors is \$153,587, and a report from the Bureau of Labor Statistics indicating the 90th percentile wage for art directors is \$170,230. The Petitioner emphasizes that he earns "\$200,000, much more than 90% of others in this occupation." However, as discussed, the Petitioner did not establish that he has earned the \$200,000 salary offered to him in his employment agreement. Based on the three pay statements provided, the Petitioner's annual salary at the time of filing was approximately \$91,250.

We note that the Petitioner previously submitted information regarding copywriter and senior copywriter salaries from various sources, including a printout from Payscale.com indicating that the median U.S. salary for a senior copywriter is \$73,795, and the ninetieth percentile is \$99,000. Based on this evidence, the Petitioner's actual salary in 2018, the only year for which evidence of his earnings was provided, was above average, but not "significantly high" in comparison to others. The Petitioner did not provide data for his geographic area of employment [redacted] Illinois) as a basis for comparison. Even considering average national salaries, the Petitioner did not demonstrate that he commands a high salary in relation to other copywriters. Accordingly, we agree with the Director's determination that this criterion was not met.

C. O-1 Nonimmigrant Status

We note that the record reflects that the Petitioner has been granted O-1 status, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved at least one O-1 nonimmigrant visa petition filed on behalf of the Petitioner, the prior approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard - statute, regulations, and case law. Many Form 1-140 immigrant petitions are correctly denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *affd*, 905 F. 2d 41 (2d Cir. 1990). Furthermore, our authority over the USCIS service centers, the office adjudicating the nonimmigrant visa petition, is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigration petition. *La. Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. 2000).

¹⁰ The agreement stipulates that the Petitioner would be referred to as "Copywriter" throughout the agreement. However, we note there are several instances where he is referred to as "Art design director." We note that the Petitioner provided comparative wage information for both art directors and copywriters.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.